

STUDENT CODE OF CONDUCT

It should be emphasized that when a student's violation of the law also adversely affects the college's pursuit of its recognized educational objectives, the college may enforce its own regulations regardless of any civil proceeding or dispositions. When a student violates a college regulation, they are subject to disciplinary action by the college whether or not their conduct violates civil law. If a person's behavior simultaneously violates a college regulation and the civil laws off-campus, they may incur penalties described by civil authorities. College discipline will be initiated only in instances of student misconduct, which distinctly and adversely affects the college's pursuit of its recognized educational purposes. Disciplinary measures appropriate to the offense up to and including dismissal from the college may be imposed.

THE NCHERM GROUP/ATIXA MODEL POLICY AND PROCEDURE

CIVIL RIGHTS EQUITY GRIEVANCE PROCEDURE (EGP) FOR ALL FACULTY, STUDENTS AND EMPLOYEES

ATIXA Model 3: Investigation -> Hearing -> Appeal -> Coordinator-
Implemented Resolution

THIS MODEL PROCESS CAN BE USED AT LARGE OR SMALL CAMPUSES,
AND WITHIN PUBLIC UNIVERSITIES, PRIVATE COLLEGES, AND
COMMUNITY COLLEGES. IT IS INTENDED TO HELP CAMPUSES TO BE
COMPLIANT WITH TITLE IX AND ALL OTHER FORMS OF CIVIL RIGHTS
LAWS AND RELEVANT RESOLUTION PROCESSES.

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ADAPTING THIS WORK, PLEASE CONSULT WITH LICENSED LEGAL
COUNSEL IN YOUR JURISDICTION TO ENSURE COMPLIANCE WITH ALL
APPLICABLE LAWS AND REGULATORY REQUIREMENTS.

THIS STATEMENT MUST APPEAR IN ANY VERSION OF THIS MODEL
USED BY A COLLEGE OR UNIVERSITY:

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POLICY: Equal Opportunity, Harassment and Nondiscrimination

As used in this document, the term "reporting party" refers to the person impacted by alleged discrimination. The term "responding party" refers to the person who has allegedly engaged in discrimination.

Mid-Plains Community College affirms its commitment to promote the goals of fairness and equity in all aspects of the educational enterprise. All policies below are subject to resolution using the Mid-Plains Community College's Equity Grievance Procedure (EGP), as detailed below. When the responding party is a member of the Mid-Plains Community College community, the EGP is applicable regardless of the status of the reporting party who may be a member or non-member of the campus community, including students, student organizations, faculty, administrators, staff, guests, visitors, campers, etc.

The Director of Human Resources serves as the Title IX Coordinator and oversees implementation of the Mid-Plains Community College's Affirmative Action and Equal Opportunity plan and the Mid-Plains Community College's policy on equal opportunity, harassment and

nondiscrimination. The Title IX Coordinator heads the Title IX Team and acts with independence and authority free of conflicts of interest. To raise any concern involving a conflict of interest by the Title IX Coordinator, contact the Mid-Plains Community College President, Ryan Purdy, at (308) 535-3723. To raise concerns regarding a potential conflict of interest with any other administrator involved in the EGP, please contact the Title IX Coordinator.

Inquiries about and reports regarding this policy and procedure may be made internally to:

Rebecca Wrage
Title IX/Equity/AA Coordinator
Office of Human Resources
1101 Halligan Dr., North Platte 69101
(308) 535-3679
wrager@mpcc.edu

Andy Long
McCook Campus Vice President / Equity Grievance Panel Co-Chair
1205 East 3rd Street, McCook, NE 69001
(308) 345-8119
longa@mpcc.edu

Inquiries may be made externally to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

Equal Employment Opportunity Commission (EEOC)
Contact: <http://www.eeoc.gov/contact/>
Mid-Plains Community College is under the jurisdiction of the Kansas City Area EEOC Office.

Location:
Gateway Tower II
400 State Ave., Suite 905
Kansas City, KS 66101
Phone: 1-800-669-4000

Reporting Discrimination

Reports of discrimination, harassment and/or retaliation may be made using any of the following options. There is no time limitation on the filing of allegations. However, if the responding party is no longer subject to the Mid-Plains Community College's jurisdiction, the ability to investigate, respond and provide remedies may be more limited:

- Report directly to the Title IX Coordinator^[2], Rebecca Wrage, at (308) 535-3679 or McCook Campus Vice President / Equity Grievance Panel Co-Chair, Andy Long, at (308) 345-8119;
- Report online, using the reporting form posted at <http://www.mpcc.edu/about-mpcc/general-information/incident-report>. Click the "Make A Report" Button.

All reports are acted upon promptly while every effort is made by the Mid-Plains Community College to preserve the privacy of reports. Such reports may also be anonymous. Anonymous reports will be

investigated to determine if remedies can be provided. Additionally, all employees of the Mid-Plains Community College are designated as mandated reporters, except for the Area Counselor, and will share a report with the Title IX Coordinator promptly. Confidentiality and mandated reporting is addressed more specifically below. Reports of misconduct or discrimination committed by the Title IX Coordinator should be reported to the Mid-Plains Community College President, Ryan Purdy, at (308) 535-3723.

Reporting Student Conduct Offenses

Reports of Student Conduct Offenses may be made using any of the following options. There is no time limitation on the filing of allegations. However, if the responding party is no longer subject to the Mid-Plains Community College's jurisdiction, the ability to investigate, respond and provide remedies may be more limited:

- Report directly to Area Dean of Student Life, Dr. Brian Obert, at (308) 345-8109 or Area Associate Dean of Student Life, Janelle Higgins, at (308) 535-3713.
- Report online, using the reporting form posted at <http://www.mpcc.edu/about-mpcc/general-information/incident-report>. Click the "Make A Report" Button.

All reports are acted upon promptly while every effort is made by the Mid-Plains Community College to preserve the privacy of reports. Such reports may also be anonymous. Anonymous reports will be investigated to determine if remedies can be provided. Additionally, all employees of the Mid-Plains Community College are designated as mandated reporters, except for the Area Counselor, and will share a report with the Title IX Coordinator promptly. Confidentiality and mandated reporting is addressed more specifically below.

The Equity Grievance Procedure applies to behaviors that take place on the campus, at Mid-Plains Community College -sponsored events and may also apply off-campus and to actions online when the Title IX Coordinator determines that the off-campus conduct affects a substantial Mid-Plains Community College interest. A substantial Mid-Plains Community College interest is defined to include:

- Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state or federal law;
- Any situation where it appears that the responding party may present a danger or threat to the health or safety of self or others;
- Any situation that significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder; and/or
- Any situation that is detrimental to the educational interests of the Mid-Plains Community College.

[Public Universities/Colleges: Any online postings or other electronic communication by students, including cyber-bullying, cyber-stalking, cyber-harassment, etc. occurring completely outside of the Mid-Plains Community College's control (e.g. not on Mid-Plains Community College networks, websites or between Mid-Plains Community College email accounts) will only be subject to this policy when those online behaviors can be shown to cause a substantial on-campus disruption. Otherwise, such communications are considered speech protected by the 1st Amendment. Remedies for such conduct will be provided, but protected speech cannot be legally subjected to discipline.

Off-campus discriminatory or harassing speech by employees may be regulated by the Mid-Plains Community College only when such speech is made in an employee's official or work-related capacity.]

Mid-Plains Community College Policy on Nondiscrimination

Mid-Plains Community College adheres to all federal and state civil rights laws prohibiting discrimination in public institutions of higher education. Mid-Plains Community College will not discriminate against any employee, applicant for employment, student or applicant for admission on the basis of race, religion, hearing status, personal appearance, color, sex, pregnancy, political affiliation, source of income, place of business, residence, creed, ethnicity, national origin (including ancestry), citizenship status, physical or mental disability, age, marital status, family responsibilities, sexual orientation, gender, gender identity or expression, veteran or military status (including special disabled veteran, Vietnam-era veteran, or recently separated veteran), predisposing genetic characteristic information and testing, domestic violence victim status, Family Medical Leave or any other protected category under applicable local, state or federal law, including protections for those opposing discrimination or participating in any resolution process on campus or within the Equal Employment Opportunity Commission or other human rights agencies. This policy covers nondiscrimination in employment and in access to educational opportunities. Therefore, any member of the campus community who acts to deny, deprive or limit the educational, employment, residential and/or social access, benefits and/or opportunities of any member of the campus community, guest or visitor on the basis of their actual or perceived membership in the protected classes listed above is in violation of the Mid-Plains Community College policy on nondiscrimination. When brought to the attention of the Mid-Plains Community College, any such discrimination will be appropriately addressed and remedied by the Mid-Plains Community College according to the Equity Grievance Process described below. Non-members of the campus community who engage in discriminatory actions within Mid-Plains Community College programs or on Mid-Plains Community College property are not under the jurisdiction of this policy, but can be subject to actions that limit their access and/or involvement with Mid-Plains Community College programs as the result of their misconduct. All vendors serving the Mid-Plains Community College through third-party contracts are subject by those contracts to the policies and procedures or their employers or to these policies and procedures, to which their employer has agreed to be bound.

This policy may be found at: <http://www.mpcc.edu/about-mpcc/general-information/non-discrimination-policy>

Mid-Plains Community College Policy on Accommodation of Disabilities

Mid-Plains Community College is committed to full compliance with the Americans With Disabilities Act of 1990 (ADA and ADAAA) and Section 504 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified persons with disabilities, as well as other federal and state laws pertaining to individuals with disabilities. Under the ADA and its amendments, a person has a disability if they have a physical or mental impairment that substantially limits a major life activity. The ADA also protects individuals who have a record of a substantially limiting impairment or who are regarded as disabled by the institution whether qualified or not. A substantial impairment is one that significantly

limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking or caring for oneself.

The Area Director of Adult Education/ADA, Robin Rankin at 308.535.3637, has been designated as the ADA/504 Coordinator responsible for coordinating efforts to comply with these disability laws, including investigation of any allegation of noncompliance.

This policy may be found at: [http://www.mpcc.edu/about-mpcc/general-information/americans-with-disabilities-act-\(ada\)-policy](http://www.mpcc.edu/about-mpcc/general-information/americans-with-disabilities-act-(ada)-policy)

Students with Disabilities

Mid-Plains Community College is committed to providing qualified students with disabilities with reasonable accommodations and support needed to ensure equal access to the academic programs and activities of the Mid-Plains Community College.

All accommodations are made on a case-by-case basis. A student requesting any accommodation should first contact the Area Director of Adult Education/ADA who coordinates services for students with disabilities. The Area Director of Adult Education/ADA reviews documentation provided by the student and, in consultation with the student, determines which accommodations are appropriate to the student's particular needs and academic programs.

Employees with Disabilities

Pursuant to the ADA, Mid-Plains Community College will provide reasonable accommodation(s) to all qualified employees with known disabilities, where their disability affects the performance of their essential job functions, except where doing so would be unduly disruptive or would result in undue hardship.

An employee with a disability is responsible for requesting an accommodation in writing to the Director of Human Resources and provide appropriate documentation. The Director of Human Resources will work with the employee's supervisor to identify which essential functions of the position are affected by the employee's disability and what reasonable accommodations could enable the employee to perform those duties.

Mid-Plains Community College Policy on Discriminatory Harassment

Students, staff, administrators, and faculty are entitled to a working environment and educational environment free of discriminatory harassment. Mid-Plains Community College's harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive subject matters protected by academic freedom. The sections below describe the specific forms of legally prohibited harassment that are also prohibited under Mid-Plains Community College policy.

Discriminatory and Bias-Related Harassment

Harassment constitutes a form of discrimination that is prohibited by Mid-Plains Community College policy as well as the law. Mid-Plains Community College condemns and will not tolerate discriminatory harassment against any employee, student, visitor or guest on the basis of any status protected by policy or law. Mid-Plains Community College will remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a hostile environment.

When harassment rises to the level of creating a hostile environment, Mid-Plains Community College may also impose sanctions on the

harasser through application of the Equity Resolution Process. Mid-Plains Community College's harassment policy explicitly prohibits any form of harassment, defined as unwelcome conduct on the basis of actual or perceived membership in a protected class, by any member or group of the community.

A hostile environment may be created by harassing verbal, written, graphic, or physical conduct that is severe or persistent/pervasive, and objectively offensive such that it interferes with, limits or denies the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits or opportunities.

The Mid-Plains Community College reserves the right to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature not on the basis of a protected status. Addressing such behaviors may not result in the imposition of discipline under Mid-Plains Community College policy, but will be addressed through respectful confrontation, remedial actions, education and/or effective conflict resolution mechanisms. For assistance with conflict resolution techniques, employees should contact the Director of Human Resources and students should contact the Dean of Student Life.

Sexual Harassment

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC) and the State of Nebraska regard sexual harassment as a form of sex/gender discrimination and, therefore, as an unlawful discriminatory practice. Mid-Plains Community College has adopted the following definition of sexual harassment, in order to address the special environment of an academic community, which consists not only of employer and employees, but of students as well.

Sexual harassment is:

- unwelcome,
- sexual, sex-based and/or gender-based,
- verbal, written, online and/or physical conduct.

Anyone experiencing sexual harassment in any Mid-Plains Community College program is encouraged to report it immediately to the Title IX Coordinator or a deputy. Remedies, education and/or training will be provided in response.

Sexual harassment may be disciplined when it takes the form of *quid pro quo* harassment, retaliatory harassment and/or creates a hostile environment.

A hostile environment is created when sexual harassment is:

- Severe, or
- persistent or pervasive, and
- objectively offensive, such that it:
- unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the University's/College's educational, employment, social and/or residential program.

Quid Pro Quo Sexual Harassment:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by a person having power or authority over another constitutes sexual harassment when submission to such sexual conduct is made either explicitly or implicitly a term or

condition of rating or evaluating an individual's educational development or performance.

Some examples of possible Sexual Harassment include:

- A professor insists that a student have sex with him/her in exchange for a good grade. This is harassment regardless of whether the student accedes to the request and irrespective of whether a good grade is promised or a bad grade is threatened.
- A student repeatedly sends sexually oriented jokes around on an email list s/he created, even when asked to stop, causing one recipient to avoid the sender on campus and in the residence hall in which they both live.
- Explicit sexual pictures are displayed in a professor's office or on the exterior of a residence hall door.
- Two supervisors frequently 'rate' several employees' bodies and sex appeal, commenting suggestively about their clothing and appearance.
- A professor engages students in her class in discussions about their past sexual experiences, yet the conversation is not in any way germane to the subject matter of the class. She probes for explicit details, and demands that students answer her, though they are clearly uncomfortable and hesitant.
- An ex-girlfriend widely spreads false stories about her sex life with her former boyfriend to the clear discomfort of the boyfriend, turning him into a social pariah on campus.
- Male students take to calling a particular brunette student "Monica" because of her resemblance to Monica Lewinsky. Soon, everyone adopts this nickname for her, and she is the target of relentless remarks about cigars, the president, "sexual relations" and Weight Watchers.
- A student grabbed another student by the hair, then grabbed her breast and put his mouth on it. While this is sexual harassment, it is also a form of sexual violence.

Policy Expectations with Respect to Consensual Relationships

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as faculty and student, supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of applicable sections of this policy. The College does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the College. For the personal protection of members of this community, relationships in which power differentials are inherent (faculty-student, staff-student, administrator-student) are generally discouraged.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisor, and will likely result in the necessity to remove the employee from the supervisory or evaluative responsibilities, or shift a party out of being supervised or evaluated by someone with whom they have established a consensual relationship. This includes RAs and students over whom they have direct

responsibility. Please see the Board of Governors Nepotism Policy (4145) for information on relationships that are prohibited by this policy, failure to self-report such relationships to a supervisor as required can result in disciplinary action for an employee.

This policy may be found at: <http://www.mpcc.edu/about-mpcc/board-of-governors-01/BoardMeetingPolicyManual/Section%2004-Personnel.pdf>

Sexual Misconduct

State law defines various violent and/or non-consensual sexual acts as crimes. While some of these acts may have parallels in criminal law, Mid-Plains Community College has defined categories of sex/gender discrimination as sexual misconduct, as stated below, for which action under this policy may be imposed. Generally speaking, Mid-Plains Community College considers Non-Consensual Sexual Intercourse violations to be the most serious of these offenses, and therefore typically imposes the most severe sanctions, including suspension or expulsion for students and termination for employees. However, Mid-Plains Community College reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any act of sexual misconduct or other sex/gender-based offenses, including intimate partner (dating and/or domestic) violence, non-consensual sexual contact and/or stalking based on the facts and circumstances of the particular allegation. Acts of sexual misconduct may be committed by any person upon any other person, regardless of the sex, sexual orientation and/or gender identity of those involved. Violations include:

Sexual Harassment (as defined in section IX, B. above) Non-Consensual Sexual Intercourse

Defined as:

- any sexual intercourse
- however slight
- with any object
- by a person upon another person
- that is without consent and/or by force

Sexual intercourse includes:

- Vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation (mouth to genital contact) no matter how slight the penetration or contact.

Non-Consensual Sexual Contact Defined as:

- any intentional sexual touching
- however slight
- with any object
- by a person upon another person
- that is without consent and/or by force

Sexual touching includes:

- Intentional contact with the breasts, groin, or genitals, mouth or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; or
- Any other bodily contact in a sexual manner.

Sexual Exploitation

Sexual Exploitation refers to a situation in which a person takes non-consensual or abusive sexual advantage of another, and that behavior

does not otherwise fall within the definitions of Sexual Harassment, Non-Consensual Sexual Intercourse or Non-Consensual Sexual Contact. Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as watching a person undressing, using the bathroom or engaged in sexual acts without the consent of the person observed).
- Invasion of sexual privacy.
- Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent).
- Prostitution.
- Sexual exploitation also includes engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV), a sexually transmitted disease (STD) or infection (STI) without informing the other person of the infection.
- Administering alcohol or drugs (such as "date rape" drugs) to another person without his or her knowledge or consent (assuming the act is not completed).
- Exposing one's genitals in non-consensual circumstances.
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation.

Force, Consent, and Incapacitation

Force:

a) Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent ("Have sex with me or I'll hit you." "Okay, don't hit me, I'll do what you want.").

b) Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

NOTE: Silence or the absence of resistance alone is not consent. There is no requirement on a party to resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of consent is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.

Consent:

a) Consent is knowing, voluntary, and clear permission by word or action to engage in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Consent can be withdrawn once given, as long as the withdrawal is clearly communicated.

b) Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous dating relationship is not sufficient to constitute consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced.

Incapacitation:

a) A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy.

b) It is not an excuse that the responding party was intoxicated and, therefore, did not realize the incapacity of the reporting party.

c) Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the "who, what, when, where, why or how" of their sexual interaction). This policy also covers a person whose incapacity results from mental disability, involuntary physical restraint and/or from the taking of incapacitating drugs.

d) In Nebraska, a minor (meaning a person under the age of 19 years) cannot consent to sexual activity. This means that sexual contact by an adult with a person younger than 19 years old may be a crime, and a potential violation of this policy, even if the minor wanted to engage in the act.

Examples of lack of consent:

- Amanda and Bill meet at a party. They spend the evening dancing and getting to know each other. Bill convinces Amanda to come up to his room. From 11:00pm until 3:00am, Bill uses every line he can think of to convince Amanda to have sex with him, but she adamantly refuses. He keeps at her, and begins to question her religious convictions, and accuses her of being "a prude." Finally, it seems to Bill that her resolve is weakening, and he convinces her to give him a "hand job" (hand to genital contact). Amanda would never had done it but for Bill's incessant advances. He feels that he successfully seduced her, and that she wanted to do it all along, but was playing shy and hard to get. Why else would she have come up to his room alone after the party? If she really didn't want it, she could have left. **Bill is responsible for violating the university Non-Consensual Sexual Contact policy. It is likely that campus decision-makers would find that the degree and duration of the pressure Bill applied to Amanda are unreasonable. Bill coerced Amanda into performing unwanted sexual touching upon him. Where sexual activity is coerced, it is forced. Consent is not valid when forced. Sex without consent is sexual misconduct.**
- Jiang is a junior at the university. Beth is a sophomore. Jiang comes to Beth's residence hall room with some mutual friends to watch a movie. Jiang and Beth, who have never met before, are attracted to

each other. After the movie, everyone leaves, and Jiang and Beth are alone. They hit it off, and are soon becoming more intimate. They start to make out. Jiang verbally expresses his desire to have sex with Beth. Beth, who was abused by a baby-sitter when she was five, and has not had any sexual relations since, is shocked at how quickly things are progressing. As Jiang takes her by the wrist over to the bed, lays her down, undresses her, and begins to have intercourse with her, Beth has a severe flashback to her childhood trauma. She wants to tell Jiang to stop, but cannot. Beth is stiff and unresponsive during the intercourse. Is this a policy violation? **Jiang would be held responsible in this scenario for Non Consensual Sexual Intercourse.**

It is the duty of the sexual initiator, Jiang, to make sure that he has mutually understandable consent to engage in sex. Though consent need not be verbal, it is the clearest form of consent. Here, Jiang had no verbal or non-verbal mutually understandable indication from Beth that she consented to sexual intercourse. Of course, wherever possible, it is important to be as clear as possible as to whether or not sexual contact is desired, and to be aware that for psychological reasons, or because of alcohol or drug use, one's partner may not be in a position to provide as clear an indication as the policy requires.

As the policy makes clear, consent must be actively, not passively, given.

- Kevin and John are at a party. Kevin is not sure how much John has been drinking, but he is pretty sure it's a lot. After the party, he walks John to his room, and John comes on to Kevin, initiating sexual activity. Kevin asks him if he is really up to this, and John says yes. Clothes go flying, and they end up in John's bed. Suddenly, John runs for the bathroom. When he returns, his face is pale, and Kevin thinks he may have thrown up. John gets back into bed, and they begin to have sexual intercourse. Kevin is having a good time, though he can't help but notice that John seems pretty groggy and passive, and he thinks John may have even passed out briefly during the sex, but he does not let that stop him. When Kevin runs into John the next day, he thanks him for the wild night. John remembers nothing, and decides to make a report to the Dean. **This is a violation of the Non-Consensual Sexual Intercourse Policy. Kevin should have known that John was incapable of making a rational, reasonable decision about sex. Even if John seemed to consent, Kevin was well aware that John had consumed a large amount of alcohol, and Kevin thought John was physically ill, and that he passed out during sex. Kevin should be held accountable for taking advantage of John in his condition. This is not the level of respectful conduct the university expects.**

Other Civil Rights Offenses

In addition to the forms of sexual misconduct described above, the following behaviors are also prohibited as forms of discrimination when the act is based upon the reporting party's actual or perceived membership in a protected class.

A. Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;
B. Discrimination, defined as actions that deprive, limit or deny other members of the community of educational or employment access, benefits or opportunities;
C. Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
D. Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the university community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the Hazing Policy);
Bullying, defined as

- Repeated and/or severe
- Aggressive behavior
- Likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally
- That is not speech or conduct otherwise protected by the 1st Amendment.

Intimate Partner Violence, defined as violence or abuse between those in an intimate relationship to each other;

Examples:

- A boyfriend shoves his girlfriend into a wall upon seeing her talking to a male friend. This physical assault based in jealousy is a violation of the Intimate Partner Violence policy.
- An ex-girlfriend shames her female partner, threatening to out her as a lesbian if she doesn't give the ex another chance. Psychological abuse is a form of Intimate Partner Violence.
- A graduate student refuses to wear a condom and forces his girlfriend to take hormonal birth control though it makes her ill, in order to prevent pregnancy.
- Married employees are witnessed in the parking garage, with one partner slapping and scratching the other in the midst of an argument.

Stalking

Stalking 1:

- A course of conduct
- Directed at a specific person
- On the basis of actual or perceived membership in a protected class
- That is unwelcome, AND
- Would cause a reasonable person to feel fear

Stalking 2:

- Repetitive and Menacing
- Pursuit, following, harassing and/or interfering with the peace and/or safety of another

Examples of Stalking

- A student repeatedly shows up at another student's on-campus residence, always notifying the front desk attendant that they are there to see the resident. Upon a call to the resident, the student informs residence hall staff that this visitor is uninvited and continuously attempts to see them, even so far as waiting for them outside of classes and showing up to their on-campus place of employment requesting that they go out on a date together (Stalking 1).

- A graduate student working as a on-campus tutor received flowers and gifts delivered to their office. After learning the gifts were from a student they recently tutored, the graduate student thanked the student and stated that it was not necessary and would appreciate if the gift deliveries stop. The student then started leaving notes of love and gratitude on the graduate assistant's car, both on-campus and at home. Asked again to stop, the student stated by email: "You can ask me to stop, but I'm not giving up. We are meant to be together, and I'll do anything necessary to make you have the feelings for me that I have for you." When the tutor did not respond, the student emailed again, "You cannot escape me. I will track you to the ends of the earth. We are meant to be together" (Stalking 2).

Any other College policies may fall within this section when a violation is motivated by the actual or perceived membership of the reporting party's sex or gender.

Sanctions for the above-listed "Other Civil Rights Offense" behaviors range from reprimand through expulsion (students) or termination of employment.

Retaliation

Retaliation is defined as any adverse action taken against a person participating in a protected activity because of their participation in that protected activity. Retaliation against an individual for alleging harassment, supporting a party bringing an allegation or for assisting in providing information relevant to a claim of harassment is a serious violation of Mid-Plains Community College policy and will be treated as another possible instance of harassment or discrimination. Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. Mid-Plains Community College is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

Examples of Retaliation:

- Student-athlete A files an allegation against a coach for sexual harassment; the coach subsequently cuts the student-athlete's playing time in half without a legitimate justification
- A faculty member complains of gender inequity in pay within her department; the Department Chair then revokes his prior approval allowing her to attend a national conference, citing the faculty member's tendency to "ruffle feathers."
- A student from Organization A participates in a sexual misconduct hearing against the responding individual – also a member of Organization A; the student is subsequently removed as a member of Organization A because he participated in the hearing

Remedial Action

Upon notice of alleged discrimination, Mid-Plains Community College will implement initial remedial, responsive and/or protective actions upon notice of alleged harassment, retaliation and/or discrimination. Such actions could include but are not limited to: no contact orders, providing counseling and/or medial services, academic support, living arrangement adjustments, transportation accommodations, visa and immigration assistance, student financial aid counseling, providing a campus escort, academic or work schedule and assignment accommodations, safety planning, referral to campus and community support resources.

Mid-Plains Community College will take additional prompt remedial and/or disciplinary action with respect to any member of the community,

guest or visitor upon a finding that they have engaged in harassing or discriminatory behavior or retaliation.

The Mid-Plains Community College will maintain as confidential any accommodations or protective measures, provided confidentiality does not impair the Mid-Plains Community College's ability to provide the accommodations or protective measures.

Procedures for handling reported incidents are fully described below.

Confidentiality and Reporting of Offenses Under This Policy

All Mid-Plains Community College employees (faculty, staff, administrators) are expected to report actual or suspected discrimination or harassment to appropriate officials immediately, though there are some limited exceptions. In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality – meaning they are not required to report actual or suspected discrimination or harassment to appropriate university officials – thereby offering options and advice without any obligation to inform an outside agency or campus official unless a reporting party has requested information to be shared. Other resources exist for reporting parties to report crimes and policy violations and these resources will take action when an incident is reported to them. The following describes the reporting options at Mid-Plains Community College:

Confidential Reporting

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with:

- On-campus Area Counselor
- Off-campus (non-employees):
- Licensed professional counselors
- Local rape crisis counselors
- Domestic violence resources
- Local or state assistance agencies
- Clergy/Chaplains

All of the above-listed individuals will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor. Campus counselors and/or the Employee Assistance Program are available to help free of charge and can be seen on an emergency basis during normal business hours. Mid-Plains Community College employees listed above will submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client, patient or parishioner.

Formal Reporting Options

All Mid-Plains Community College employees have a duty to report, unless they fall under the "Confidential Reporting" section above. Reporting parties may want to consider carefully whether they share personally identifiable details with non-confidential employees, as those details must be shared with the Title IX Coordinator. Employees must promptly share all details of the reports they receive. Generally, climate surveys, classroom writing assignments or discussions, human subjects research, or events such as Take Back the Night marches or speak-outs do not provide notice that must be reported to the Coordinator by employees, unless the reporting party clearly indicates that they wish a

report to be made. Remedial actions may result from such disclosures without formal Mid-Plains Community College action.

If a reporting party does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the reporting party may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal law. Note that the Mid-Plains Community College's ability to remedy and respond to a reported incident may be limited if the reporting party does not want the institution to proceed with an investigation and/or the Equity Resolution Process.

In cases indicating pattern, predation, threat, weapons and/or violence, the Mid-Plains Community College will likely be unable to honor a request for confidentiality. In cases where the reporting party requests confidentiality and the circumstances allow the Mid-Plains Community College to honor that request, the Mid-Plains Community College will offer interim supports and remedies to the reporting party and the community, but will not otherwise pursue formal action. A reporting party has the right, and can expect, to have allegations taken seriously by Mid-Plains Community College when formally reported, and to have those incidents investigated and properly resolved through these procedures.

Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told, including but not limited to: Office of Student Life, Area Counselor, and the Concern Investigation and Intervention Team. Information will be shared as necessary with investigators, witnesses and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve a reporting party's rights and privacy. Additionally, anonymous reports can be made by victims and/or third parties using the online reporting form posted at <http://www.mpcc.edu/about-mpcc/general-information/incident-report>. Note that these anonymous reports may prompt a need for the institution to investigate.

Failure of a non-confidential employee, as described in this section, to report an incident or incidents of sex/gender harassment or discrimination of which they become aware is a violation of Mid-Plains Community College policy and can be subject to disciplinary action for failure to comply.

Federal Timely Warning Obligations

Parties reporting sexual misconduct should be aware that under the Clery Act, Mid-Plains Community College administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. Mid-Plains Community College will ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

False Allegations

Deliberately false and/or malicious accusations under this policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action.

Amnesty for Reporting Party and Witnesses

The Mid-Plains Community College community encourages the reporting of misconduct and crimes by reporting parties and witnesses. Sometimes, reporting parties or witnesses are hesitant to report to Mid-Plains Community College officials or participate in resolution processes because they fear that they themselves may be accused of policy violations, such as underage drinking at the time of the incident. It is in the best interests of this community that reporting parties choose to report to university officials, and that witnesses come forward to share what they know. To encourage reporting, Mid-Plains Community College pursues a policy of offering reporting parties and witnesses amnesty from minor policy violations related to the incident.

Students:

Sometimes, students are hesitant to offer assistance to others for fear that they may get themselves in trouble (for example, a student who has been drinking underage might hesitate to help take a sexual misconduct victim to the Campus Police). The Mid-Plains Community College pursues a policy of amnesty for students who offer help to others in need. While policy violations cannot be overlooked, the university will provide educational options, rather than punishment, to those who offer their assistance to others in need.

Optional: Employees:

Sometimes, employees are also hesitant report harassment or discrimination they have experienced for fear that they may get themselves in trouble. For example, an employee who has violated the consensual relationship policy and is then assaulted in the course of that relationship might hesitate to report the incident to Mid-Plains Community College officials. The institution may, at its discretion, offer employee reporting parties amnesty from such policy violations (typically more minor policy violations) related to the incident. Amnesty may also be granted to witnesses on a case-by-case basis.

Parental Notification (Allegations Involving Students)

The Mid-Plains Community College reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, change in student status or conduct situation, particularly alcohol and other drug violations. The university may also notify parents/guardians of non-dependent students who are under age 21 of alcohol and/or drug policy violations. Where a student is non-dependent, the Mid-Plains Community College will contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk. The Mid-Plains Community College also reserves the right to designate which university officials have a need to know about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act.

Federal Statistical Reporting Obligations

Certain campus officials – those deemed Campus Security Authorities – have a duty to report sexual assault, domestic violence, dating violence and stalking for federal statistical reporting purposes (Clery Act). All personally identifiable information is kept confidential, but statistical information must be passed along to the Office of Student Life regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) for publication in the Annual Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety. Mandated federal reporters include: student

affairs/student conduct, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations and any other official with significant responsibility for student and campus activities. The information to be shared includes the date, the location of the incident (using Clery location categories) and the Clery crime category. This reporting protects the identity of the victim and may be done anonymously.